

E-Filed on 1/8/10

1 3993 Howard Hughes Parkway, Suite 600
2 Las Vegas, NV 89169-5996
3 Facsimile (702) 949-8321
4 Telephone (702) 949-8320

5 Rob Charles NV State Bar No. 006593
6 Email: rcharles@lrlaw.com
7 John Hinderaker AZ State Bar No. 018024
8 Email: jhinderaker@lrlaw.com
9 Marvin Ruth NV State Bar No. 10979
10 Email: mruth@lrlaw.com

11 Attorneys for USACM Liquidating Trust

12 **UNITED STATES BANKRUPTCY COURT
13 DISTRICT OF NEVADA**

14 In re:

15 USA COMMERCIAL MORTGAGE
16 COMPANY,

17 USA CAPITAL REALTY ADVISORS,
18 LLC,¹

19 USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

20 USA CAPITAL FIRST TRUST DEED
FUND, LLC,²

21 USA SECURITIES, LLC,³

Debtors.

22 Affects:

- 23 All Debtors
 USA Commercial Mortgage Company
 USA Capital Realty Advisors, LLC
 USA Capital Diversified Trust Deed Fund, LLC
 USA Capital First Trust Deed Fund, LLC
 USA Securities, LLC

24 Case No. BK-S-06-10725-LBR
25 Case No. BK-S-06-10726-LBR¹
26 Case No. BK-S-06-10727-LBR²
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**NOTICE OF HEARING REGARDING
OBJECTION OF USACM TRUST TO
PROOFS OF CLAIM BASED, IN
WHOLE OR IN PART, UPON
INVESTMENT IN ASHBY
FINANCIAL COMPANY \$7,200,000
LOAN WITH CERTIFICATE OF
SERVICE**

Date of Hearing: February 5, 2010
Time of Hearing: 9:30 a.m.

27 **THE USACM LIQUIDATING TRUST IS OBJECTING TO THE CLAIM
28 THAT YOU FILED. THE USACM TRUST SEEKS TO DISALLOW YOUR
29 CLAIM TO THE EXTENT IT IS BASED UPON INVESTMENT IN ASHBY
30 FINANCIAL COMPANY \$7,200,000 LOAN. THIS OBJECTION WILL NOT**

31 ¹ This bankruptcy case was closed on September 23, 2008.

32 ² This bankruptcy case was closed on October 12, 2007.

33 ³ This bankruptcy case was closed on December 21, 2007.

1 **IMPACT YOUR CLAIM TO THE EXTENT IT IS BASED UPON AN**
2 **INVESTMENT IN A DIFFERENT LOAN.**

3 **PLEASE DO NOT CONTACT THE CLERK OF THE BANKRUPTCY**
4 **COURT TO DISCUSS THE MERITS OF YOUR CLAIM.** QUESTIONS
5 **REGARDING THE AMOUNT OF A CLAIM OR THE FILING OF A CLAIM**
6 **SHOULD BE DIRECTED TO BRANT FYLLING OF SIERRA CONSULTING**
7 **GROUP, LLC (602) 424-7009) OR THE UNDERSIGNED COUNSEL.**

8 **NOTICE IS HEREBY GIVEN** that the USACM Liquidating Trust has filed its
9 Objection of USACM Trust to Proofs of Claim Based, In Whole or in Part, Upon
10 Investment in the Ashby Financial Company \$7,200,000.00 Loan (the “Objection”). Your
11 Proof of Claim number and other information regarding your claim is provided in **Exhibit**
12 **A**, attached. The USACM Liquidating Trust has requested that this Court enter an order,
13 pursuant to Bankruptcy Code § 502 and Bankruptcy Rule 3007, disallowing your Proof of
14 Claim to the extent it is based upon investment in the Ashby Financial company
15 47,200,000 Loan. The Objection will not impact your Claim to the extent it is based upon
16 an investment in a different loan.

17 **NOTICE IS FURTHER GIVEN** that the hearing on the Objection will be held
18 before the Honorable Linda B. Riegle, United States Bankruptcy Judge, in the Foley
19 Federal Building, 300 Las Vegas Boulevard South, Courtroom 1, Las Vegas, Nevada, on
20 **February 5, 2010 at the hour of 9:30 a.m.**

21 **NOTICE IS FURTHER GIVEN THAT THE HEARING SET ON**
22 **FEBRUARY 5, 2010, WILL BE HELD FOR THE PURPOSE OF STATUS**
23 **CHECKS AND SCHEDULING EVIDENTIARY HEARINGS ONLY. NO**
24 **ARGUMENTS WILL BE HEARD ON THAT DATE.**

25 **NOTICE IS FURTHER GIVEN** that pursuant to Local Rule 3007(b), any
26 response to the objection must be filed and served on counsel by **January 22, 2010.** Any

1 reply to an opposition shall be filed and served by January 29, 2010. Local rule 3007(b)
2 states:

3 A response is deemed sufficient if it states that written documentation in
4 support of the proof of claim has already been provided to the objecting
5 party and that the documentation will be provided at any evidentiary hearing
or trial on the matter.

6 If you object to the relief requested, you *must* file a **WRITTEN** response to this
7 pleading with the Court. You *must* also serve your written response on the person who
8 sent you this notice.

9 If you do not file a written response with the Court, or if you do not serve your
10 written response on the person who sent you this notice, then:

- 11 • The Court may *refuse to allow you to speak* at the scheduled hearing; and
12 • The Court may *rule against you* and sustain the objection without formally
13 calling the matter at the hearing.

14 Dated: January 8, 2010.

15 LEWIS AND ROCA LLP

16 By /s/ John Hinderaker (#18024)
17 Rob Charles, NV 6593
18 John C. Hinderaker, AZ 18024 (*pro hac vice*)
19 3993 Howard Hughes Parkway, Suite 600
20 Las Vegas, Nevada 89169
Telephone: (702) 949-8320
Facsimile: (702) 949-8398
E-mail: jhinderaker@LRLaw.com
Attorneys for the USACM Liquidating Trust

21 Copy of the foregoing and pertinent
22 portion of Exhibit A mailed by first
23 class postage prepaid U.S. Mail on
January 8, 2010 to Parties listed on
Exhibit A attached.

24 LEWIS AND ROCA LLP

25 /s/ Leilani Lista
26 Leilani Lista